



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 6540-99
7 February 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that her naval record be corrected to show that she was retired by reason of physical disability, vice discharged with entitlement to severance pay.

2. The Board, consisting of Messrs. Milner, Schultz and Swarens, reviewed Petitioner's allegations of error and injustice on 3 February 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner was discharged by reason of physical disability on 24 October 1998, with a 10% rating for orthopedic conditions. She noted a mass in her right breast during November 1998, which was subsequently biopsied and found to be malignant. The Department of Veterans Affairs awarded her a 100% rating for breast cancer effective 28 January 1999.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner was suffering from undiagnosed breast cancer at the time of her discharge, which

rendered her unfit for duty. Accordingly, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that she was not discharged by reason of physical disability on 24 October 1998.


b. That her record be further corrected to show that she was released from active duty on 24 October 1998, and transferred to the Temporary Disability Retired List the following day pursuant to 10 U.S. Code 1202, with a combined rating of 100% for breast cancer, rated at 100% under VA code 7627, and Paget's disease, primary; right shoulder impingement syndrome with acromioclavicular arthritis; and bilateral patellofemoral syndrome, rated at 10% in VA code 5099-5003.

b. That Petitioner be accorded a periodic medical examination as soon as practicable.
Current address: [REDACTED]

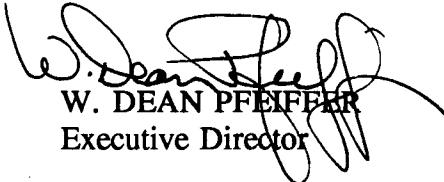
c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JAMES R. EXNICIOS
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director